Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
MCI TELECOMMUNICATIONS CORPORATION	)	RM 9108
	)	
	)	
Billing and Collection Services Provided By Local Exchange Carriers for Non-Subscribed Interexchange Services	)	

COMMENTS

BellSouth Corporation on behalf of itself and its affiliate companies ("BellSouth") hereby submits its comments on the Petition for Rulemaking filed by MCI Communications Corporation ("MCI").

In its petition, MCI urges the Commission to institute a rulemaking to adopt "transitional" and "non-intrusive" rules to govern LEC requirements to bill on the behalf of interexchange carriers for non-presubscribed calls. Underlying its petition is MCI's vague claim that some LECs are renegotiating their billing and collection agreements with MCI. During this process, it would appear that these LECs have announced that they will no longer provide billing services or that they will do so at an increased price.

At the outset, BellSouth wants to make clear that it is not planning to discontinue its billing services and has not threatened to terminate its contracts. Accordingly, it is not familiar with the circumstances alluded to by MCI. Nevertheless, nothing in MCI's petition warrants the commencement of a rulemaking proceeding.

There simply is no basis for the Commission to interfere with the operation of the competitive market. It is irrelevant that MCI characterizes its request as "transitional" and "non-intrusive." Any regulation of a competitive market is intrusive. Billing and collection services are not common carrier services and have not been regulated by the Commission for over ten years. The industry is long past the point that regulatory transition plans can be justified.

MCI tries to tempt the Commission to act by using its now all too familiar ploy of hinting that the LECs (to be read BOCs) will have a competitive advantage when they enter the interLATA market. MCI's premise is that without rules, there would be a potential for discrimination.

Apart from the fact that no BOC has received permission from the Commission to enter the interLATA market, the problem with MCI's premise is that discrimination, to the extent that it is precluded by the Communications Act, ultimately turns on a fact-based determination. If discrimination is unlawful, there is no need for a rule. For example, the Section 202(a) of the Communications Act has always held as unlawful unreasonable discrimination in the provision of like communications services.[1] There are no rules implementing this statutory provision. Rules are unnecessary because the question of whether there is an unlawful discrimination turns on the specific facts of the particular instance in question. There is no difference here.

Furthermore, the Commission has consistently found that competition, not regulation, is the best preventative of unlawful discrimination.[2] This is not a situation where competitive alternatives do not exist for LEC billing and collection services. Indeed, MCI concedes the

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1 47 U.S.C. § 202(a).

2 See Competition in the Interstate Interexchange Market Place, 6 FCC Rcd 5880 (1991).

existence of such alternatives. MCI, however, argues that these alternatives are infeasible. MCI's measure for infeasibility correlates to the cost to MCI. If the alternative costs more than MCI has been paying for billing and collection services under existing LEC billing contracts, MCI deems the alternative infeasible.

The fact that MCI would face increased costs does not make the alternative infeasible. As MCI acknowledges, non-presubscribed services are "low-volume", "occasional" and "episodic". As such, these services are quite distinguishable from 1+ toll calls. As a matter of cost recovery, there is nothing inconsistent, anticompetitive or discriminatory to expect the higher cost of billing "occasional" and "episodic" services to be borne by the provider of those services. To the extent that providers do not bear this cost, then others are subsidizing them. The fact that MCI does not want to bear this cost does not provide a reason for rulemaking much less regulatory interference in a competitive, deregulated market.

The irony of MCI's petition is notable. MCI implicates the price increases of LEC billing and collection services as a reason for it to seek a rulemaking. Yet, in CC Docket 96-262, MCI is urging the Commission to increase the allocation of costs to billing and collection in order to reduce interstate access charges. MCI also claims that it is infeasible for it to bill its own service because of cost. But, MCI apparently has no difficulty in suggesting that the cost burden should be shifted to the LECs, including new entrants.

It is plain that MCI merely wants the LECs to underwrite its non-presubscribed business. Perhaps such a result will enhance MCI's profitability, but it does not provide a basis for rulemaking. All that underlies MCI's petition are hypothetical constructs, none of which, even if they were actual occurrences, would warrant the Commission to take action that would re-

regulate a competitive, non-communications service. Such a step is so fundamentally at odds with the deregulatory objectives of the Telecommunications Act of 1996 that before the Commission pursues a rulemaking, it must be absolutely certain that a rulemaking and re-regulation are the only courses of action open to it. That determination cannot be made on the basis of MCI's petition.

In 1987, removal of billing and collection from common carrier regulation was a bold step. The Commission's determination to rely on competition and the market was correct and this procompetitive initiative was confirmed by the passage of the Telecommunications Act of 1996. A rulemaking, as proposed by MCI, is a lurch backward in time that is irreconcilable with the procompetitive, deregulatory goals of the Commission. Regulation ought not to be used as a crutch to support those who have planned poorly. Thus, the Commission should deny MCI's request.

Respectfully submitted,

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Date: July 25, 1997

CERTIFICATE OF SERVICE

I certify that I have this 25th day of July, 1997 served all parties to this action with a copy of the foregoing **COMMENTS** by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed below.

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